

109TH CONGRESS
2D SESSION

S. 3485

To amend the Tariff Act of 1930 to prohibit the import, export, and sale of goods made with sweatshop labor, and for other purposes.

IN THE SENATE OF THE UNITED STATES

JUNE 8, 2006

Mr. DORGAN introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To amend the Tariff Act of 1930 to prohibit the import, export, and sale of goods made with sweatshop labor, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Decent Working Con-
5 ditions and Fair Competition Act”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress makes the following find-
8 ings:

9 (1) The violation of core labor standards, as de-
10 fined under the laws of the United States and the

1 International Labor Organization, is widespread in
2 factories that produce goods for sale in the United
3 States.

4 (2) Factories that violate core labor standards
5 are commonly referred to as sweatshops.

6 (3) Subjecting factory workers to sweatshop
7 conditions that violate core labor standards is mor-
8 ally offensive to the American people both in their
9 roles as consumers and as investors, and is degrad-
10 ing to workers forced to labor under these condi-
11 tions.

12 (4) Workers have a right to be free of sweat-
13 shop working conditions.

14 (5) Consumers have a right to know that the
15 goods they purchase are not produced in sweatshops.

16 (6) Businesses have a right to be free from
17 competition with companies that use sweatshop
18 labor.

19 (7) Shareholders have a right to know that
20 their investments are not supporting sweatshop
21 labor.

22 (8) It is a deceptive trade practice and a form
23 of unfair competition for a business to sell sweat-
24 shop goods.

1 (9) Prohibiting the sale, manufacture, offer for
2 sale, transportation, and distribution of sweatshop
3 goods, regardless of the source of the goods, is con-
4 sistent with the international obligations of the
5 United States because the prohibition applies equally
6 to domestic and foreign products and avoids any dis-
7 crimination among foreign sources of competing
8 products.

9 (b) PURPOSES.—The purposes of this Act are to—

10 (1) prohibit the import, export, or sale of goods
11 made in factories or workshops that violate core
12 labor standards; and

13 (2) prohibit the procurement of sweatshop
14 goods by the United States Government.

15 **SEC. 3. DEFINITION OF CORE LABOR STANDARDS.**

16 (a) IN GENERAL.—In this Act, the term “core labor
17 standards”, means—

18 (1) the right of association;

19 (2) the right to organize and bargain collec-
20 tively;

21 (3) a prohibition on the use of any form of
22 forced or compulsory labor;

23 (4) a minimum age for the employment of chil-
24 dren; and

1 (5) acceptable conditions of work with respect
 2 to minimum wages, hours of work, and occupational
 3 safety and health.

4 (b) ACCEPTABLE CONDITIONS.—For purposes of
 5 subsection (a)(5), acceptable conditions of work shall be
 6 determined by the laws, regulations, or competent author-
 7 ity of the country where the labor is performed.

8 **TITLE I—TARIFF ACT OF 1930**

9 **SEC. 101. IMPORTATION AND SALE OF SWEATSHOP GOODS**

10 **PROHIBITED.**

11 Section 307 of the Tariff Act of 1930 (19 U.S.C.
 12 1307) is amended to read as follows:

13 **“SEC. 307. PROHIBITION OF IMPORT AND SALE OF CON-**

14 **VICT-MADE GOODS AND SWEATSHOP GOODS.**

15 “(a) DEFINITIONS.—In this section:

16 “(1) CONVICT-MADE GOOD.—The term ‘convict-
 17 made good’ means any good, ware, article, or mer-
 18 chandise mined, produced, or manufactured wholly
 19 or in part in any foreign country by convict labor.

20 “(2) SWEATSHOP GOOD.—The term ‘sweatshop
 21 good’ means any good, ware, article, or merchandise
 22 mined, produced, or manufactured wholly or in part
 23 in violation of core labor standards as defined in sec-
 24 tion 3 of the Decent Working Conditions and Fair
 25 Competition Act.

1 “(b) PROHIBITIONS.—It is unlawful for any person
2 to—

3 “(1) import into the United States any convict-
4 made good;

5 “(2) import into, or export from, the United
6 States any sweatshop good;

7 “(3) introduce into commerce, sell, trade, or ad-
8 vertise in commerce, offer to sell, or transport or
9 distribute in commerce in the United States, any
10 sweatshop good.”.

11 **SEC. 102. WAIVER AUTHORITY.**

12 (a) IN GENERAL.—The President, for reasons of na-
13 tional interest, may recommend that the application of
14 section 201 of this Act or section 307(b) (2) and (3) of
15 the Tariff Act of 1930 be waived in connection with the
16 goods of any country with respect to 1 or more of the
17 principles and rights defined as a core labor standard in
18 section 3 of this Act. Any such recommendation shall—

19 (1) be transmitted to the House of Representa-
20 tives and the Senate setting forth the President’s
21 reasons for the waiver;

22 (2) include, for each waiver recommendation, a
23 determination that the waiver is necessary to protect
24 the national interest of the United States; and

1 (3) include, for each principle or right for which
 2 a waiver is recommended, an explanation of why the
 3 President recommends waiving application of that
 4 principle or right.

5 (b) PERIOD OF WAIVER.—A waiver under this sec-
 6 tion shall be effective for a 12-month period unless Con-
 7 gress enacts a joint resolution described in subsection (c).

8 (c) JOINT RESOLUTION REQUIREMENTS AND PROCE-
 9 DURES.—

10 (1) RESOLUTION DESCRIBED.—For purposes of
 11 this subsection, the term “resolution” means only a
 12 joint resolution of the two Houses of Congress, the
 13 matter after the resolving clause of which is as fol-
 14 lows: “That the Congress does not approve the waiv-
 15 er of section 201 of the Decent Working Conditions
 16 and Fair Competition Act or section 307(b) (2) and
 17 (3) of the Tariff Act of 1930 (19 U.S.C. 1307) rec-
 18 ommended by the President to the Congress on
 19 _____ with respect to the application of
 20 _____ to the goods of_____.”,
 21 with the first blank space being filled with the ap-
 22 propriate date, the second blank space being filled
 23 with the principle or right to be waived, and the
 24 third blank space being filled with the name of the

1 country, if any, with respect to which the waiver of
2 authority is disapproved.

3 (2) APPLICATION OF PROCEDURAL PROVI-
4 SIONS.—The provisions of section 152 (b) through
5 (f) of the Trade Act of 1974 (19 U.S.C. 2192 (b)
6 through (f)) shall apply to resolutions described in
7 paragraph (1).

8 (3) APPROVAL BY CONGRESS.—If Congress ap-
9 proves a joint resolution, Congress shall send the
10 resolution to the President before the end of the 90-
11 day period beginning on the date that Congress re-
12 ceives the waiver described in subsection (a).

13 (4) EFFECT OF VETO.—If the President vetoes
14 the joint resolution, the resolution is enacted into
15 law if each House of Congress votes to override the
16 veto on or before the later of the last day of the 90-
17 day period referred to in paragraph (3) or the last
18 day of the 15-day period, excluding any day de-
19 scribed in section 154(b) of the Trade Act of 1974
20 (19 U.S.C. 2194(b)), beginning on the date the Con-
21 gress receives the veto message from the President.

22 (5) INTRODUCTION.—A joint resolution to
23 which this subsection applies may be introduced at
24 any time on or after the date the President trans-

1 mits to Congress the waiver described in subsection
 2 (a).

3 (d) TERMINATION OR EXTENSION OF WAIVER.—A
 4 waiver with respect to the goods of any country terminates
 5 on the day after the waiver authority granted by this sub-
 6 section ceases to be effective with respect to such country,
 7 unless an extension of the waiver authority is granted. The
 8 President may recommend an extension of the waiver au-
 9 thority in the same manner as the original recommenda-
 10 tion, except that the President may not recommend an ex-
 11 tension later than the date that is 30 days before the waiv-
 12 er authority expires. The President may, at any time, ter-
 13 minate by Executive order any waiver under this section.

14 **TITLE II—FEDERAL TRADE** 15 **COMMISSION**

16 **SEC. 201. VIOLATION OF FEDERAL TRADE COMMISSION** 17 **ACT.**

18 (a) IN GENERAL.—It is unlawful for any person to
 19 introduce into commerce, sell, trade, or advertise in com-
 20 merce, offer to sell or transport or distribute in commerce
 21 any sweatshop good.

22 (b) SWEATSHOP GOOD.—For purposes of this title,
 23 the term “sweatshop good” means any good, ware, article,
 24 or merchandise mined, produced, or manufactured wholly

1 or in part in violation of core labor standards, listed in
2 section 3 of this Act.

3 (c) ENFORCEMENT.—

4 (1) IN GENERAL.—The Federal Trade Commis-
5 sion shall enforce the provisions of this section with
6 respect to the prohibitions under subsection (a) as if
7 the violation were an unfair or deceptive act or prac-
8 tice proscribed under section 18(a)(1)(B) of the
9 Federal Trade Commission Act (15 U.S.C.
10 57a(a)(1)(B)).

11 (2) ACTIONS BY THE COMMISSION.—The Com-
12 mission shall prevent any person from violating this
13 Act in the same manner, by the same means, and
14 with the same jurisdiction, powers, and duties as
15 though all applicable terms and provisions of the
16 Federal Trade Commission Act (15 U.S.C. 41 et
17 seq.) were incorporated into and made a part of this
18 title. Any person that violates the provisions of this
19 title shall be subject to the penalties and entitled to
20 the privileges and immunities provided in said Fed-
21 eral Trade Commission Act in the same manner, by
22 the same means, and with the same jurisdiction,
23 power, and duties as though all applicable terms and
24 provisions of the Federal Trade Commission Act
25 were incorporated into and made a part of this title.

1 (3) INVESTIGATIONS.—Notwithstanding any
2 other provision of law, the Federal Trade Commis-
3 sion shall investigate any complaint received from a
4 worker alleging a violation of this title with respect
5 to a good, ware, article, or merchandise produced by
6 that worker.

7 (4) REGULATIONS.—Not later than 6 months
8 after the date of the enactment of this Act, the Fed-
9 eral Trade Commission shall publish rules to carry
10 out the provisions of this title.

11 **SEC. 202. PRIVATE RIGHT OF ACTION.**

12 (a) PRIVATE SUITS.—A person with standing to sue
13 under subsection (c) may bring a civil action against any
14 seller of goods, wares, articles, or merchandise on grounds
15 of violation of section 201.

16 (b) JURISDICTION.—The United States district
17 courts shall have jurisdiction, without regard to the
18 amount in controversy or the citizenship of the parties,
19 to enforce this section.

20 (c) STANDING TO SUE.—The followings persons have
21 standing to sue under this section:

22 (1) Competitors of the retailer of any good,
23 ware, article, or merchandise sold in violation of sec-
24 tion 201.

1 (2) Investors of the retailer of any good, ware,
2 article, or merchandise sold in violation of section
3 201.

4 (d) DAMAGES; INJUNCTIVE RELIEF; ATTORNEY
5 COSTS AND FEES.—

6 (1) When a violation of section 201 is estab-
7 lished in any civil action arising under this section,
8 the plaintiff shall be entitled to recover \$10,000 per
9 violation or the fair market value of the goods,
10 whichever is greater. The court may increase the
11 award of damages if the court finds that the defend-
12 ant willfully or knowingly violated section 201.

13 (2) The plaintiff may sue for injunctive relief
14 against threatened loss or damage due to a violation
15 of section 201.

16 (3) The court shall award the cost of the suit,
17 including a reasonable attorney's fee, to a prevailing
18 plaintiff.

19 (e) INTERAGENCY COOPERATION.—All Federal de-
20 partments and agencies shall cooperate with the Commis-
21 sioner of Customs and the Federal Trade Commission, to
22 the extent practicable in the enforcement of this title.

23 (f) LIST OF VIOLATORS; DISCLOSURE AND PUBLICA-
24 TION BY FEDERAL TRADE COMMISSION.—On January 1
25 and July 1 of each year, the Federal Trade Commission

1 shall publish in the Federal Register and post on an Inter-
 2 net website the following information:

3 (1) An alphabetical list of the name, address,
 4 and chief executive officer of each person that has,
 5 during the 2 years prior to publication, violated the
 6 provisions of this title, along with a summary de-
 7 scription of each violation and the cumulative num-
 8 ber of violations by each person on the list.

9 (2) A detailed description of each violation that
 10 includes the following information:

11 (A) The name, address, and chief executive
 12 officer of each violator.

13 (B) The circumstances under which core
 14 labor standards, as defined in section 3 of this
 15 Act were violated in the course of the mining,
 16 production, or manufacturing of the goods in
 17 question.

18 **TITLE III—GOVERNMENT** 19 **PROCUREMENT**

20 **SEC. 301. GOVERNMENT PROCUREMENT OF SWEATSHOP** 21 **GOODS PROHIBITED.**

22 (a) AMENDMENT TO FEDERAL PROPERTY AND AD-
 23 MINISTRATIVE SERVICES ACT OF 1949.—Title III of the
 24 Federal Property and Administrative Services Act of 1949

1 (41 U.S.C. 251 et seq.) is amended by adding at the end
2 the following new section:

3 **“SEC. 318. PROHIBITION ON PROCUREMENT OF SWEAT-**
4 **SHOP GOODS.**

5 “(a) CERTIFICATION REQUIREMENT.—The head of
6 an executive agency shall ensure that each covered con-
7 tract entered into by such official for the procurement of
8 property includes a clause that requires the contractor—

9 “(1) to certify to the contracting officer that
10 the contractor has made a good faith effort to deter-
11 mine whether any product furnished under the con-
12 tract is a sweatshop good, and that, on the basis of
13 those efforts, the contractor is unaware that any
14 such product is a sweatshop good; and

15 “(2) to cooperate fully in providing reasonable
16 access to the contractor’s records, persons, or prem-
17 ises if requested by the contracting agency, the Di-
18 rectorate of Border and Transportation Security of
19 the Department of Homeland Security, or the De-
20 partment of Justice for the purpose of determining
21 whether any product furnished under the contract is
22 a sweatshop good.

23 “(b) INVESTIGATIONS.—Whenever a contracting offi-
24 cer of an executive agency has reason to believe that a
25 product furnished under a covered contract is a sweatshop

1 good, the head of the executive agency shall refer the mat-
2 ter for investigation to the Inspector General of the execu-
3 tive agency and, as the head of the executive agency or
4 the Inspector General determines appropriate, to the At-
5 torney General and the Under Secretary for Border and
6 Transportation Security.

7 “(c) REMEDIES.—

8 “(1) IN GENERAL.—The head of an executive
9 agency may impose remedies as provided in this sub-
10 section if the head of the executive agency finds that
11 the contractor—

12 “(A) has furnished under a covered con-
13 tract a product that is a sweatshop good;

14 “(B) has submitted a false certification
15 under subsection (a)(1); or

16 “(C) has failed to cooperate with an inves-
17 tigation under this section.

18 “(2) TERMINATION OF CONTRACT.—The head
19 of an executive agency may terminate a covered con-
20 tract on the basis of a finding of a violation that oc-
21 curs under paragraph (1) after the date the require-
22 ments of this section are implemented through the
23 amendment of the Federal Acquisition Regulation
24 under sections 6 and 25 of the Office of Federal
25 Procurement Policy Act (41 U.S.C. 405 and 421).

1 “(3) DEBARMENT AND SUSPENSION.—The head
2 of an executive agency may debar or suspend a con-
3 tractor from eligibility for Federal contracts on the
4 basis of a finding that the contractor has committed
5 a violation described in paragraph (1). The debar-
6 ment period may not exceed 3 years.

7 “(4) INCLUSION ON LIST OF PARTIES EX-
8 CLUDED FROM FEDERAL PROCUREMENT AND NON-
9 PROCUREMENT PROGRAMS.—The Administrator of
10 General Services shall include on the List of Parties
11 Excluded from Federal Procurement and Non-
12 procurement Programs maintained by the Adminis-
13 trator under part 9 of the Federal Acquisition Regu-
14 lation each contractor that is debarred, suspended,
15 proposed for debarment or suspension, or declared
16 ineligible by the head of an executive agency on the
17 basis that the contractor has committed a violation
18 under paragraph (1).

19 “(5) REMEDIES NOT EXCLUSIVE.—This section
20 shall not be construed to limit the use of other rem-
21 edies available to the head of an executive agency or
22 any other official of the Federal Government on the
23 basis of a finding under paragraph (1).

24 “(d) DEFINITIONS.—In this section:

1 “(1) COVERED CONTRACT.—The term ‘covered
2 contract’ means a contract for a total amount in ex-
3 cess of the micro-purchase threshold, as that term is
4 defined in section 32(f) of the Office of Federal Pro-
5 curement Policy Act (41 U.S.C. 428(f)).

6 “(2) SWEATSHOP GOOD.—The term ‘sweatshop
7 good’ means all goods, wares, articles, and merchan-
8 dise mined, produced, or manufactured wholly or in
9 part in violation of core labor standards, as defined
10 in section 3 of the Decent Working Conditions and
11 Fair Competition Act.”.

12 (b) AMENDMENT TO TITLE 10, UNITED STATES
13 CODE.—

14 (1) IN GENERAL.—Chapter 137 of title 10,
15 United States Code, is amended by adding at the
16 end the following new section:

17 **“§ 2333. Prohibition on procurement of sweatshop**
18 **goods**

19 “(a) CERTIFICATION REQUIREMENT.—The head of
20 an agency shall ensure that each covered contract entered
21 into by such official for the procurement of property in-
22 cludes a clause that requires the contractor—

23 “(1) to certify to the contracting officer that
24 the contractor has made a good faith effort to deter-
25 mine whether any product furnished under the con-

1 tract is a sweatshop good, and that, on the basis of
2 those efforts, the contractor is unaware that any
3 such product is a sweatshop good; and

4 “(2) to cooperate fully in providing reasonable
5 access to the contractor’s records, persons, or prem-
6 ises if requested by the contracting agency, the Di-
7 rectorate of Border and Transportation Security of
8 the Department of Homeland Security, or the De-
9 partment of Justice for the purpose of determining
10 whether any product furnished under the contract is
11 a sweatshop good.

12 “(b) INVESTIGATIONS.—Whenever a contracting offi-
13 cer of an agency has reason to believe that a product fur-
14 nished under a covered contract is a sweatshop good, the
15 head of the agency shall refer the matter for investigation
16 to the Inspector General of the agency and, as the head
17 of the agency or the Inspector General determines appro-
18 priate, to the Attorney General and the Under Secretary
19 for Border and Transportation Security.

20 “(c) REMEDIES.—(1) The head of an agency may im-
21 pose remedies as provided in this subsection if the head
22 of the agency finds that the contractor—

23 “(A) has furnished under a covered contract a
24 product that is a sweatshop good;

1 “(B) has submitted a false certification under
2 subsection (a)(1); or

3 “(C) has failed to cooperate with an investiga-
4 tion under subsection (b).

5 “(2) The head of an agency may terminate a covered
6 contract on the basis of a finding of a violation that occurs
7 under paragraph (1) after the date the requirements of
8 this section are implemented through the amendment of
9 the Federal Acquisition Regulation under sections 6 and
10 25 of the Office of Federal Procurement Policy Act (41
11 U.S.C. 405 and 421).

12 “(3) The head of an agency may debar or suspend
13 a contractor from eligibility for Federal contracts on the
14 basis of a finding that the contractor has committed a vio-
15 lation described in paragraph (1). The debarment period
16 may not exceed 3 years.

17 “(4) The Administrator of General Services shall in-
18 clude on the List of Parties Excluded from Federal Pro-
19 curement and Nonprocurement Programs maintained by
20 the Administrator under part 9 of the Federal Acquisition
21 Regulation each contractor that is debarred, suspended,
22 proposed for debarment or suspension, or declared ineli-
23 gible by the head of an agency on the basis that the con-
24 tractor has committed a violation under paragraph (1).

1 “(5) This section shall not be construed to limit the
 2 use of other remedies available to the head of an agency
 3 or any other official of the Federal Government on the
 4 basis of a finding under paragraph (1).

5 “(d) DEFINITIONS.—In this section:

6 “(1) The term ‘covered contract’ means a con-
 7 tract for a total amount in excess of the micro-pur-
 8 chase threshold, as that term is defined in section
 9 32(f) of the Office of Federal Procurement Policy
 10 Act (41 U.S.C. 428(f)).

11 “(2) The term ‘sweatshop good’ means all
 12 goods, wares, articles, and merchandise mined, pro-
 13 duced, or manufactured wholly or in part in violation
 14 of core labor standards, as defined in section 3 of
 15 the Decent Working Conditions and Fair Competi-
 16 tion Act.”.

17 (2) CLERICAL AMENDMENT.—The table of con-
 18 tents at the beginning of such chapter is amended
 19 by adding at the end the following new item:

“2333. Prohibition on procurement of sweatshop goods.”.

20 (c) IMPLEMENTATION THROUGH THE FEDERAL AC-
 21 QUISSION REGULATION.—Not later than 120 days after
 22 the date of the enactment of this Act, the Federal Acquisi-
 23 tion Regulatory Council shall amend the Federal Acquisi-
 24 tion Regulation issued under sections 6 and 25 of the Of-
 25 fice of Federal Procurement Policy Act (41 U.S.C. 405

1 and 421) to provide for the implementation of the require-
2 ments of section 318 of the Federal Property of Adminis-
3 trative Services Act of 1949 and section 2333 of title 10,
4 United States Code, as added by subsections (a) and (b),
5 respectively.

6 (d) REPORT.—Not later than 2 years after the re-
7 quirements of this section and of section 318 of the Fed-
8 eral Property of Administrative Services Act of 1949 and
9 section 2333 of title 10, United States Code, as added by
10 subsections (a) and (b), respectively, are implemented
11 through the amendment of the Federal Acquisition Regu-
12 lation pursuant to subsection (c), the Administrator of
13 General Services, with the assistance of other executive
14 agencies, shall submit to the Office of Management and
15 Budget a report on the actions taken under such sections.

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